IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.2779 OF 1999

Panvel Municipal Council ..Petitioner
Vs.
Kishor P. Agarwal & Ors. ..Respondents

Mr.N.V.Walawalkar for Petitioner
Mr.R.M.Patne, A.G.P. for the Respondents

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 5TH APRIL, 2005.

P.C.

. In this case the aggrieved party is Panvel Municipal Council. It is their contention that the order dated 28th September, 1998 passed by the Collector, Raigad allowing the application made by Respondent No.2 in the matter of Octroi demand is without jurisdiction.

. The Petitioner permitted Respondent No.1 to collect octroi on its behalf. Accordingly Respondent no.1 made demand to Respondent No.2. Respondent No.2 aggrieved, made a representation to Respondent no.3 which has been allowed. At the hearing of this appeal on behalf of the Petitioner their learned Counsel contends that considering Sections 172 and 169 of the Maharashtra Municipal Councils Nagar Panchayats and Industrial Townships Act, 1965 (herein after referred to as the Act) the Collector had no jurisdiction to entertain the said

representation in the matter of a demand like octroi.

. Section 172 of the Act provides amongst others that any objection as to any valuation of assessment or levy of the tax cannot be redressed in any other manner or by any other authority, other than as provided in the Act. Under Section 169 in respect of the demand made in the matter of taxes or other dues an appeal lies to a Judicial Magistrate. In other words if a demand for a tax or other dues leviable under the Act was made on a person, the remedy of such person is to prefer an appeal under Section 169 of the Act. Once an authority is specified as an appellate authority by virtue of Section 172 of the Act, there is ouster of jurisdiction of other authorities. In the instant case the demand was for octroi. As such the Collector would have no jurisdiction to have entertained, the representation made by Respondent No.2. Once that is the case the impugned order dated 28th September, 1998 is without jurisdiction and consequently has to be set aside. Rule made absolute in terms of prayer clause (b).

. There shall be no order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)